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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Alice Romans-Hess, et al. Art Unit 3761
Serial No. 10/684,181
Filed October 10, 2003
Confirmation No. 2587
For ABSORBENT ARTICLES HAVING INCREASED ABSORBENCY OF COMPLEX FLUIDS
Examiner Michelle M. Kidwell

July 29, 2008

REPLY BRIEF

Applicants are submitting this Reply Brief in response to Examiner’s Answer dated May 30, 2008.

In Examiner’s Answer, the Office states that Applicants’ argument, specifically with regard to the claimed limitation of including at least about 5% (by total weight of the superabsorbent particles) flake superabsorbents in the absorbent article is unpersuasive. Specifically, the Office states that Everett discloses an absorbent core that includes a minimum of not less than about 5 weight percent superabsorbent, which can be in specific forms such as flake or ribbon form. In light of such disclosure, the Office states that 5 weight percent of superabsorbent is provided for the total weight.

Applicants respectfully assert (also noted in the Appeal Brief) that, although, Everett, et al. disclose an absorbent core having a minimum of not less than about 5 weight percent superabsorbent, **no where** is the amount of flake superabsorbent (or ribbon superabsorbent) by total weight of superabsorbent **ever mentioned.** Particularly, as stated in claim 1, Applicants require the **superabsorbent** to include at least 5% (**by weight of total superabsorbent** in the absorbent article) flake superabsorbent particles. More particularly, Applicants have found that by using a specific amount (at least 5%, more suitably 10%, even more suitably 15%, and even more suitably up to 100%) of flake superabsorbent, which has an average surface area to volume ratio of at least about 0.05 μm^{-1}, as the superabsorbent, the absorbent product can absorb complex bodily fluids such as plasma, blood, menses, mucus, and liquid bowl movement in an improved manner as compared to conventional absorbent products utilizing spherical-like superabsorbent particles.

Moreover, the Office states that disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiment. Everett, et al. specifically disclose the use of spherical superabsorbents. More particularly, in the Examples, Everett, et al. teach that their controlled-rate superabsorbent is configured with relatively large particle sizes to provide **particles having a low, surface area to volume ratio** (i.e., spherical and spherical-like particles), which thereby produces the desired absorbent rate. This latter statement of desirably using particles having a low, surface area to volume ratio is in direct contrast and teaches away from Applicants' claimed invention. Specifically, as noted above, Applicants found that using flake superabsorbents having a surface area to volume ratio of at least about 0.05 μm^{-1} provides for increased absorbency as compared to conventionally used spherical particles; that is, Applicants want superabsorbent particles with a higher surface area to volume ratio as compared to conventionally used particles, such as the spherical particles used in Everett, et al.

As Applicant's claimed invention has structural differences from that of the Everett, et al. reference and there is no reason provided by the Office to predictably modify the Everett, et al. reference, claims 1-4, 6-10, 12-20, and 22-28 are patentable over the Everett, et al. reference.

Conclusion

In addition to the reasons set forth in Applicants' Appeal Brief, the rejections of the claims on appeal are in error for the reasons set forth above. Therefore, Applicants request that the Examiner's rejections of claims 1-4, 6-10, 12-20, and 22-28 be reversed. Applicants do not believe that any fee is due in connection with this reply. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment of any fees during the pendency of this application to Deposit Account No. 01-2384.

Respectfully submitted,

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Via EFS